

REMARKS

I. Introduction

These amendments and remarks are being filed in response to the Office Action dated May 4, 2007. For the following reasons this application should be allowed and the case passed to issue. No new matter is introduced by this amendment.

Claims 2-26 are pending in this application. Claims 3-7, 15-17 and 20-26 were withdrawn by the Examiner following a restriction requirement. Claims 2, 8-12 and 18 have been amended. Support for the amendment to claim 2 is found on page 4 line 20 to page 5 line 7. The amendments to claims 8-12 and 18 have been made to correct a grammatical error. Support for the amendment to claim 10 is found on page 18, lines 14-19. Support for amendment to claim 12 is found on page 20 lines 3-10.

Claim 10 was rejected under 35 U.S.C. § 112, second paragraph. Claims 2, 8-11, 13-14 and 18 were rejected under 35 U.S.C. § 102(b). Claims 12 and 19 were rejected under 35 U.S.C. § 103(a).

II. Claim Objections

Claims 2, 8 and 12 were objected to as allegedly including informalities. The Examiner alleged that there was no antecedent basis for the term “the heat seal parts” in claim 12, that claim 8 is grammatically confusing, and the phrase “heating the pressing the portion” is also grammatically confusing. Applicants respectfully submit that the claim amendments obviate the objections and request that the objections be withdrawn.

III. Claim Rejections 35 U.S.C. § 112

Claim 10 was rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to point out and distinctly claim the subject matter regarded as the invention.

Specifically, the Examiner contends that because claim 10 is directed to a product that does not have holes in the enveloping member; and that it depends from claim 8, which defines the product as having holes, that claim 10 is ambiguous.

Applicants respectfully submit, that claim 10 does not state that the product does not have holes, rather claim 10 merely describes that the enveloping member does not have a hole by stating: “wherein holes are not formed in the enveloping member”, thereby limiting the extent of the through-hole to the core member, and not to the enveloping member.

As such, the claim satisfies the requirements of 35 U.S.C. § 112, and it is respectfully requested that the rejection be withdrawn.

IV. Claim Rejections 35 U.S.C. § 102(b)

Claims 2, 8-11, 13-14 and 18 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Japanese patent document 08-303686. Applicants respectfully disagree.

The factual determination of lack of novelty under 35 U.S.C. § 102 requires the disclosure in a single reference of each element of a claimed invention. *Helifix Ltd. v. Blok-Lok Ltd.*, 208 F.3d 1339, 54 USPQ2d 1299 (Fed. Cir. 2000); *Electro Medical Systems S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 32 USPQ2d 1017 (Fed. Cir. 1994); *Hoover Group, Inc. v. Custom Metalcraft, Inc.*, 66 F.3d 399, 36 USPQ2d 1101 (Fed. Cir. 1995); *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321

(Fed. Cir. 1992); *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051 (Fed. Cir. 1987).

Currently amended claim 2 recites:

A vacuum heat insulator comprising a gas barrier enveloping member having a heat seal layer, and a flat core member,

wherein said core member is evacuated and sealed within the enveloping member said enveloping member having mutually facing heat seal layers,

wherein the enveloping member is heated and pressed in a portion where said core member is present within the enveloping member, and at portions of said enveloping member where said core member is not present within the enveloping member, and

wherein the portions of said heat seal layer where said core member is not present within the enveloping member are closely attached to each other and heated and fused so as to be along the core member shape at the border between the portion where the core member is present within the enveloping member and the portion where the core member is not present.

Thus, claim 2 recites that the portions of the heat seal layer where the core member is not present within the enveloping member are closely attached to each other and heated and fused so as to be along the core member shape at the border between the portion where the core member is present within the enveloping member and the portion where the core member is not present.

Moreover, the instantly claimed invention is characterized in that all portions of enveloping member are heated and fused.

In contrast, Japanese patent document 08-303686 does not disclose enveloping members that are closely attached along the core member shape, in the border between the portion where the core member is present and where the core member is not present.

As such, Japanese patent document 08-3030686 does not anticipate claim 2.

Furthermore, claims 8-14, 18 and 19 are allowable for at least the same reasons as independent claim 2 and further distinguish the claimed invention.

V. Claim Rejections 35 U.S.C. § 103(a)

A. Japanese Patent Document 08-303686

The Examiner rejected claim 19 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Japanese patent document 08-303686.

The Examiner concedes that Japanese patent document 08-303686 does not disclose that the thickness of the vacuum heat insulator is 0.5 mm or more to 5 mm or less, but argues that it would have been obvious to one of ordinary skill in the art to form the product of this size since a change in size is generally recognized as being within the level of ordinary skill in the art.

Applicants respectfully disagree.

As discussed above, Japanese patent document 08-303686 does not anticipate claim 2 because it fails to disclose that portions of the heat seal layers where the core member is not present between the enveloping members are closely attached to each other and heated and fused so as to be along the core member shape at the border between the portion where the core member is present and where the core member is not present.

Furthermore Japanese patent document 08-303686 does not disclose a vacuum insulator wherein the members of the heat seal layers are attached together to be along the core member shape at the border portion between the portions where the core member is present and where core member is not present.

Moreover, it would not be obvious to one having ordinary skill in the art to modify Japanese patent document 08-303686 in a way such as to include the features of the instant invention as claimed.

As such, Japanese patent document 08-303686 does not anticipate nor render obvious the claimed invention.

B. Japanese Patent Document 08-303686 in view of Grogan U.S. 6,325,281

The Examiner rejected claim 12 under 35 U.S.C. § 103(a), as allegedly being unpatentable over Japanese Patent Document 08-303686 in view of Grogan U.S. 6,325,281.

The Examiner concedes that Japanese patent document 08-303686 does not disclose adhering the envelope to the core. However, the Examiner relies on Grogan as allegedly disclosing this feature, and contends that it would have been obvious to a skilled artisan to adhere the core to the envelope in Japanese patent document 08-303686 in order to provide additional structural integrity. Applicants respectfully disagree.

As an initial matter, as discussed above, Japanese patent document 08-303686 fails to disclose the vacuum heat insulator as recited in claim 2.

Furthermore, Grogan merely discloses a thermally insulating shipping system and does not disclose heat seal layers where said core member is not present between the enveloping member are closely attached to each other and heated and fused.

In contrast, Grogan discloses that a shipping box is made of cardboard and polystyrene, (see abstract). As such, the Grogan does not disclose nor would it be obvious to modify the container disclosed in Grogan by heat fusing the cardboard and polystyrene components as this would destroy the container.

As such, Grogan fails to cure the deficiencies of Japanese patent document 08-303686, nor does it render obvious the invention as recited in claim 2.

Accordingly, neither independent claim 2, let alone dependent claim 12 is anticipated nor rendered obvious either alone or in combination by the prior art disclosed.

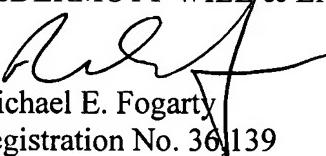
Furthermore, claims 8-14, 18 and 19 are allowable for at least the same reasons as independent claim 2 and further distinguish the claimed invention.

In view of the above amendments and remarks, Applicants submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Michael E. Fogarty
Registration No. 361139

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 MEF:jrj
Facsimile: 202.756.8087
Date: August 6, 2007

**Please recognize our Customer No. 53080
as our correspondence address.**